

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

ANTHONY RICHARDS, SR.

*

Plaintiff,

*

v.

*

1:07-CV-261-WKW

DAVE SUTTON, SHERIFF, *et al.*,

*

Defendants.

*

ORDER ON MOTION

Plaintiff filed his opposition to Defendants' written report on July 11, 2007. In his opposition, Plaintiff demands trial by jury. (Doc. No. 36.)

Plaintiff is advised that pursuant to Rule 38(b) of the *Federal Rules of Civil Procedure*, a party is allowed to demand a trial by jury of any issue triable of right by a jury by serving a demand "not later than ten days after service of the last pleading directed to such issue." F.R.Civ.P. Rule 38(d) provides that the failure of a party to serve a jury demand as required by the rule constitutes a waiver by the party of trial by jury.

Here, Defendants filed their special report to the complaint on June 15, 2007 and their answer to the complaint on June 15, 2007. Plaintiff filed his demand for a jury trial approximately one month later. Hence, Plaintiff's jury demand was not filed within ten days after the filing of any pleading setting forth an issue triable by jury. Plaintiff has, therefore, waived his right to trial by jury.

Accordingly, it is

ORDERED that Plaintiff's July 11, 2007 Demand for Trial by Jury (Doc. No. 36) is
DENIED.

DONE, this 12th day of July 2007.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE